

AMENDED IN ASSEMBLY JANUARY 3, 2000

AMENDED IN ASSEMBLY APRIL 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## ASSEMBLY BILL

**No. 1493**

**Introduced by Assembly Member Nakano**  
*(Principal coauthor: Senator Burton)*

February 26, 1999

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An act to ~~add Section 6254.26 to~~ amend Section 12956.1 of the Government Code, relating to public records.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1493, as amended, Nakano. Recording ~~statutes~~ documents: restrictive covenants.

*(1) Existing law authorizes any person holding an interest in property to request that the county recorder remove specified unlawful restrictive covenant language contained in a declaration, governing document, or deed associated with that property pursuant to specified provisions and requires the county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides the specified document to any person to place a cover page or stamp that contains a specified statement if the document includes such a restrictive covenant.*

*This bill instead would authorize any person holding an interest in property to record the document with the restrictive covenant stricken from it pursuant to these provisions.*

(2) Existing law also authorizes any person holding an interest in property that is the subject of any recorded document to require the county recorder to remove any blatant racial restrictive covenant contained in the document upon application pursuant to specified procedures.

This bill instead would authorize any person who holds an ownership interest of record in the property to delete any unlawful restrictive covenant from a certified copy issued by the county recorder, and, upon payment of applicable fees, to cause the modified document to be recorded with a coversheet attached to it that contains a specified statement. This bill would also make other technical, nonsubstantive changes to these provisions.

~~Existing law requires every specified deed or instrument to have specified information before a local recorder accepts it for recording.~~

~~Under existing law, the California Public Records Act, requires that any public record be open to inspection at all times during the regular office hours of a state or local agency and provides that every person has a right to inspect any public record or writing, with specified exceptions. Existing law relating to public records also provides for the confidentiality of certain voter registration information and certain information relating to the victims of crime.~~

~~This bill would provide that, upon notification, the address and phone number of the residence of a specified person and his or her spouse and children on specified documents relating to real property shall be confidential and shall be redacted from these public records or writings when made available to the public, except as specified.~~

~~By creating additional duties upon local officials, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*.  
State-mandated local program: ~~yes~~ *no*.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 6254.26 is added to the~~  
2     ~~SECTION 1. Section 12956.1 of the Government~~  
3     ~~Code is amended to read:~~  
4     ~~12956.1. (a) As used in this section, “association,”~~  
5     ~~“governing documents,” and “declaration” have the~~  
6     ~~same meanings as set forth in Section 1351 of the Civil~~  
7     ~~Code.~~  
8     ~~(b) A county recorder, title insurance company,~~  
9     ~~escrow company, real estate broker, real estate agent, or~~  
10    ~~association that provides a declaration, governing~~  
11    ~~documents document, or deed to any person shall place~~  
12    ~~a cover page over the document or a stamp on the first~~  
13    ~~page of the document stating, in at least 20-point boldface~~  
14    ~~red type, the following:~~  
15    ~~“If this document contains any restriction based on~~  
16    ~~race, color, religion, sex, familial status, marital status,~~  
17    ~~disability, national origin, or ancestry, that restriction~~  
18    ~~violates state and federal fair housing laws and is void.~~  
19    ~~Any person holding an interest in this property may~~  
20    ~~request that the county recorder remove the restrictive~~  
21    ~~covenant language record the document with the~~  
22    ~~restrictive covenant stricken pursuant to subdivision (c)~~  
23    ~~of Section 12956.1 of the Government Code.”~~  
24    ~~(c) Any person who holds any interest in the property~~  
25    ~~that is the subject of this document may require the~~  
26    ~~county recorder to remove any blatant racial restrictive~~  
27    ~~covenant contained in any recorded document associated~~  
28    ~~with that property. Any application to the county~~  
29    ~~recorder pursuant to this subdivision shall be in writing,~~  
30    ~~shall identify the document and the location within the~~  
31    ~~document where the restrictive covenant is located, and~~

1 ~~shall be accompanied by any fee prescribed by the~~  
2 ~~recorder, not to exceed the actual cost of the required~~  
3 ~~action. The recorder shall carry out the required action~~  
4 ~~in a timely manner.~~

5 (c) *In the event that a recorded document contains*  
6 *one or more restrictive covenants referred to in*  
7 *paragraph (b), any person who holds an ownership*  
8 *interest of record in the property that is the subject of this*  
9 *document may delete the covenant(s) from a certified*  
10 *copy thereof issued by the recorder, and, upon payment*  
11 *of applicable fees, cause the modified document without*  
12 *the coversheet referenced in paragraph (b) to be*  
13 *recorded, provided that all other requirements for*  
14 *recordation are met. In addition, the document as*  
15 *modified shall have a coversheet attached thereto, which*  
16 *will be recorded as a part thereof, containing the*  
17 *following statement signed by the person requesting*  
18 *recordation:*

19  
20 **RESTRICTIVE COVENANT MODIFICATION**

21  
22 I (We) \_\_\_\_\_ have an ownership  
23 interest of record in the property located at  
24 \_\_\_\_\_ (Address) that is the subject  
25 of this document.  
26

27 This document contained a restriction based on race,  
28 color, religion, sex, familial status, marital status,  
29 disability, national origin, or ancestry that violated  
30 state and federal fair housing laws and that  
31 restriction was void. Pursuant to Section 12956.1 of  
32 the Government Code, this document is being  
33 recorded solely for the purpose of eliminating a  
34 restrictive covenant as shown on page(s) \_\_\_\_\_ of the  
35 document recorded on \_\_\_\_\_ (Date) in book \_\_\_\_\_ and  
36 page \_\_\_\_\_, or instrument number \_\_\_\_\_ of the official  
37 records of the County of \_\_\_\_\_. No other  
38 changes have been made.  
39

The record owner(s) of this property  
is/are: \_\_\_\_\_ .

If executed at any place, within or without this state:

“I certify (or declare) under penalty of perjury  
under the laws of the State of California that the  
foregoing is true and correct”:

\_\_\_\_\_ (Date and Place)

\_\_\_\_\_ (Signature)

(d) Any person who files records a document for the  
express purpose of adding a racially restrictive covenant  
is guilty of a misdemeanor. The county recorder shall not  
incur any liability for filing recording such a document.  
Notwithstanding any other provision of law, a  
prosecution for a violation of this subdivision shall  
commence within three years after the discovery of the  
filing recording of the document.

Government Code, to read:

~~6254.26. (a) Upon notification, and except as  
provided in subdivision (c), the address and phone  
number of the residence of a person described in  
subdivision (b) which appears on any deed to real  
property, deed of trust, and mortgage with power of sale  
upon real property recorded with the county recorder,  
and any other public record or writing that evidences  
these deeds or mortgage shall be deemed confidential  
and shall be redacted from this public record or writing  
before the public record or writing is made available to  
the public.~~

~~(b) This section shall apply to the address and phone  
number of the following persons:~~

~~(1) Judges, subordinate judicial officers, and  
employees of the superior and municipal courts.~~

~~(2) Active or retired peace officers, as defined in  
Chapter 4.5 (commencing with Section 830) of Title 3 of  
Part 2 of the Penal Code.~~

~~(3) The Attorney General.~~

~~(4) The State Public Defender.~~

1 ~~(5) Members of the Legislature.~~

2 ~~(6) District attorneys.~~

3 ~~(7) Public defenders.~~

4 ~~(8) The spouse and any children of the above~~  
5 ~~described person.~~

6 ~~(c) The confidential information described in~~  
7 ~~subdivision (a) may be disclosed only as follows:~~

8 ~~(1) To the person to whom the information pertains.~~

9 ~~(2) To an officer or employee of a state agency, school~~  
10 ~~district, or local agency when necessary for the~~  
11 ~~performance of the official duties of the officer or~~  
12 ~~employee.~~

13 ~~(3) When authorized in writing by the person to~~  
14 ~~whom the information pertains.~~

15 ~~SEC. 2. Notwithstanding Section 17610 of the~~  
16 ~~Government Code, if the Commission on State Mandates~~  
17 ~~determines that this act contains costs mandated by the~~  
18 ~~state, reimbursement to local agencies and school~~  
19 ~~districts for those costs shall be made pursuant to Part 7~~  
20 ~~(commencing with Section 17500) of Division 4 of Title~~  
21 ~~2 of the Government Code. If the statewide cost of the~~  
22 ~~claim for reimbursement does not exceed one million~~  
23 ~~dollars (\$1,000,000), reimbursement shall be made from~~  
24 ~~the State Mandates Claims Fund.~~